

Order

Entered: January 22, 2003

2001-38

Amendment of Rule 8.116
of the Michigan Court Rules

Michigan Supreme Court
Lansing, Michigan

Maura D. Corrigan,
Chief Justice

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Clifford W. Taylor
Robert P. Young, Jr.
Stephen J. Markman,
Justices

On order of the Court, notice of the proposed changes and an opportunity for comment in writing and at a public hearing having been provided, and consideration having been given to the comments received, the following amendment of Rules 8.116 of the Michigan Court Rules is adopted, effective May 1, 2003.

[The present language of MCR 8.116 is amended as indicated below.]

Rule 8.116 Sessions of Court

(A)-(C) [Unchanged.]

(D) Access to Court Proceedings. ~~When a court has ordered, or has pending before it a request to order, a limitation on the access of the public to court proceedings or records of those proceedings that are otherwise public, any person may file a motion to set aside the order or an objection to entry of the proposed order. MCR 2.119 governs the proceedings on such a motion or objection. If the court denies a motion to set aside the order or enters the order after objection is filed, the moving or objecting person may file an application for leave to appeal in the same manner as a party to the action. See MCR 8.119(F)(6).~~

(1) Except as otherwise provided by statute or court rule, a court may not limit access by the public to a court proceeding unless

(a) a party has filed a written motion that identifies the specific interest to be protected, or the court *sua sponte* has identified a specific interest to be protected, and the court determines that the interest outweighs the right of access;

(b) the denial of access is narrowly tailored to accommodate the interest to be protected, and there is no less restrictive means to adequately and effectively protect the interest; and

- (c) the court states on the record the specific reasons for the decision to limit access to the proceeding.
- (2) Any person may file a motion to set aside an order that limits access to a court proceeding under this rule, or an objection to entry of such an order. MCR 2.119 governs the proceedings on such a motion or objection. If the court denies the motion or objection, the moving or objecting person may file an application for leave to appeal in the same manner as a party to the action.
- (3) Whenever the court enters an order limiting access to a proceeding that otherwise would be public, the court must forward a copy of the order to the State Court Administrative Office.

Staff Comment: The January 22, 2003, amendment of MCR 8.116, effective May 1, 2003, is based on a recommendation from the Michigan Press Association and is similar to the “sealed record rules” found in MCR 8.119(F).

The staff comment is published only for the benefit of the bench and bar and is not an authoritative construction by the Court.